

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7192

BILL NUMBER: SB 589

NOTE PREPARED: Apr 2, 2013

BILL AMENDED: Apr 1, 2013

SUBJECT: Occupational Licensing Issues.

FIRST AUTHOR: Sen. Mishler

FIRST SPONSOR: Rep. Frizzell

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Restitution Orders*- The bill permits professional licensing boards to include consumer restitution orders in cease and desist orders issued against persons who commit unlicensed practice.

Repayment of Costs- The bill permits medical and professional licensing boards to include orders requiring repayment of certain costs relating to cease and desist proceedings.

Preneed Certificates- The bill includes within the cease and desist statute failure to obtain a certificate required for sellers of preneed funeral services and merchandise. The bill allows the State Board of Funeral and Cemetery Service (Funeral Board) to issue a cease and desist order against a person who solicits or sells preneed funeral services and merchandise if the person has not obtained a preneed certificate from the Funeral Board, even if the person possesses an active funeral director license, funeral home license, embalmer license, or cemetery registration.

Recovery Funds- The bill amends the law governing the Auctioneer Consumer Recovery Fund, Real Estate Recovery Fund, and Plumbing Recovery Fund to provide that petitions requesting payment from the funds are filed with the respective licensing commission instead of with the court in which the underlying judgment against the licensee was entered.

Effective Date: July 1, 2013; July 1, 2014.

Explanation of State Expenditures: *Restitution Orders*- This provision would give professional licensing

boards more power and responsibilities. However, it is likely boards would not require additional meeting dates in order to exercise these powers.

Preneed Certificates- This provision would give the Funeral Board the specific power to issue cease and desist orders on practitioners that sell preneed funeral services to persons without a certificate. The board should be able to issue cease and desist orders within existing board meetings, assuming they are issued within the original proceedings and do not require an additional meeting.

Recovery Funds- The Auctioneer, Real Estate, and Plumbing Commissions would be able to directly award payments from their respective recovery funds without court intervention. It is likely these commissions would be able to grant payments within regularly scheduled meetings. If a person petitioning these commissions is not satisfied with the payment amount ordered by the commission from a recovery fund, the person may appeal the order. Appeals require additional review by the Professional Licensing Agency (PLA) and can involve the use of an administrative law judge (ALJ) to help review or adjudicate the dispute. It is unknown how much additional administrative review by the PLA and ALJ's could occur as a result of this provision.

Explanation of State Revenues: *Repayment of Costs*- State revenues may increase if more boards order a repayment of proceeding costs of cease and desist orders. Any revenue increase would depend on the board's discretion, and the person who has been directed to cease and desist has the ability to repay the costs. Costs can include fees for transcriptions, court reporters, witness attendance mileage fees, administrative law judges, and other items.

Explanation of Local Expenditures: (Revised) *Recovery Funds*- This provision would reduce the need for circuit and superior courts to adjudicate petitions for mental health records or payments from the recovery funds. Reduction in court time would allow particularly busy courts to hear additional cases in other areas of law more quickly.

Explanation of Local Revenues:

State Agencies Affected: All professional licensing boards and commissions; Professional Licensing Agency.

Local Agencies Affected: Trial courts.

Information Sources:

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